

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

WILLIAM A. MORRIS,	:	APPEAL NO. C-110222
	:	TRIAL NO. A-1003012
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ADMINISTRATOR, OHIO BUREAU	:	
OF WORKERS' COMPENSATION,	:	
	:	
Defendant-Appellant,	:	
	:	
and	:	
	:	
VALLEY METAL WORKS, INC.,	:	
	:	
Defendant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

The Bureau of Workers' Compensation ("BWC") appeals the trial court's entry of judgment in favor of William A. Morris on his claim for workers' compensation benefits. We conclude that the BWC's assignment of error is without merit, so we affirm the judgment of the trial court.

Morris was employed by Valley Metal Works, Inc. While at Valley Metal Works on August 10, 2009, he fractured his left ankle. Morris filed a claim for workers' compensation for the injury. The BWC's Industrial Commission disallowed the claim, concluding that the injury had occurred as a result of horseplay. Morris appealed to the Hamilton County Court of Commons Pleas. The case was tried to a jury. Prior to trial, Morris filed a motion in limine to prevent the presentation of evidence that he had registered a .1 on a breath-alcohol test that was administered at

the urgent care following the injury. The trial court granted the motion in limine and prohibited the BWC and Valley Metal Works from presenting the breath-alcohol test results and from asking Morris about his prior alcohol use. At the conclusion of the trial, the jury found that Morris had been injured in the course of his employment and was entitled to participate in the workers' compensation fund. The trial court entered a judgment accordingly.

The BWC asserts as its sole assignment of error that the trial court erred when it granted Morris's motion in limine with respect to the breath-alcohol test results and other statements regarding his alleged alcohol consumption. The trial court determined that the breath-alcohol test was not a "qualifying chemical test" under R.C. 4123.54 because there was no evidence that Valley Metal Works "had [had] reasonable cause to suspect that [Morris may have been] intoxicated" when the injury occurred. We conclude that the trial court did not abuse its discretion in refusing to allow testimony about the breath-alcohol test or other statements about Morris's alleged alcohol use in the past. *See Illinois Controls, Inc. v. Langham*, 70 Ohio St.3d 512, 526, 1994-Ohio-99, 639 N.E.2d 771.

Within its assignment of error, the BWC also contends that the trial court erred when it denied the BWC's motion for a directed verdict. We conclude that the trial court did not err when it denied the motion. Civ.R. 50(A)(4). The assignment of error is without merit, and we, therefore, affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on May 9, 2012

per order of the court _____.
Presiding Judge